

UPDATE ON THE INTELLECTUAL PROPERTY DEVELOPMENT INCENTIVE AND CHANGES TO THE PIONEER SERVICE COMPANIES INCENTIVE AND DEVELOPMENT AND EXPANSION INCENTIVE

Background

1. In the Singapore Budget Statement 2017, the Minister for Finance announced the introduction of the Intellectual Property Development Incentive (“IDI”) to encourage the use of intellectual property (“IP”) arising from research and development.
2. Additionally, the scope of two existing incentives, namely the Pioneer Service Companies Incentive (“PC-S”) and the Development and Expansion Incentive (“DEI”) will be amended to exclude IP income.
3. These changes are also intended to achieve consistency with international standards, pursuant to Singapore’s participation in the Inclusive Framework for the global implementation of measures against base erosion and profit shifting (“BEPS”)^[1]. In particular, the IDI will incorporate the modified nexus approach^[2], and the exclusion of IP income from PC-S and DEI will follow the grandfathering timelines based on international standards.^{[3],[4]}

^[1] 16 June 2016, IRAS, “Singapore Joins Inclusive Framework for Implementing Measures against Base Erosion and Profit Shifting (BEPS)”, <https://www.iras.gov.sg/irashome/News-and-Events/Newsroom/Media-Releases-and-Speeches/Media-Releases/2016/Singapore-Joins-Inclusive-Framework-for-Implementing-Measures-against-Base-Erosion-and-Profit-Shifting--BEPS-/>

^[2] 5 October 2015, OECD, “Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 – 2015 Final Report”, <http://www.oecd.org/tax/countering-harmful-tax-practices-more-effectively-taking-into-account-transparency-and-substance-action-5-2015-final-report-9789264241190-en.htm>

^[3] 5 July 2017, OECD, “Inclusive Framework on BEPS – Progress report July 2016-June 2017”, <http://www.oecd.org/tax/BEPS/inclusive-framework-on-BEPS-progress-report-july-2016-june-2017.pdf>

^[4] 16 October 2017, OECD, “Harmful Tax Practices – 2017 Progress Report on Preferential Regimes: Inclusive Framework on BEPS: Action 5”, <http://www.oecd.org/tax/beps/harmful-tax-practices-2017-progress-report-on-preferential-regimes-9789264283954-en.htm>

Update on the Approach for Exclusion of IP Income from PC-S and DEI

4. For a company granted approval of PC-S or DEI before 1 July 2018, IP income will be excluded in all of the following scenarios:
 - Where IP income is derived on or after 1 July 2018 but before 1 July 2021 from new IP rights, whereby a new IP right refers to an IP right that:
 - i. comes into ownership of the company on or after 1 July 2018; or
 - ii. comes into ownership of the company after 16 October 2017 but before 1 July 2018 as a result of acquisition from a related party where the main purpose or one of the main purposes of the acquisition is the avoidance of income tax in Singapore or elsewhere;
 - Where the company is granted, on or after 1 July 2018, an extension of its PC-S or DEI award, IP income derived on or after the first day of the extended tax relief period from all IP rights that the company owns;
 - Where IP income is derived on or after 1 July 2021 from any IP rights that the company owns.
5. For a company granted approval of PC-S or DEI on or after 1 July 2018, IP income derived on or after the first day of the tax relief period under the approval, from all the IP rights that the company owns, will be excluded.
6. For these purposes, royalties or other income is derived from an IP right if it is receivable as consideration for the commercial exploitation of the IP right for which the company is the owner or the grantee of a licence.

Implications to Businesses

7. The Economic Expansion Incentives (Relief from Income Tax) (Amendment) Bill No. 1/2018, which *inter alia*, effect the changes was passed by Parliament on 5 February 2018 and received the President's assent on 2 March 2018. Companies are required to comply accordingly.

Enhanced Transparency Framework

8. In accordance with international standards^[5], Singapore has committed to the compulsory spontaneous exchange of information (“SEOI”) on certain tax incentives falling within the scope of the Forum on Harmful Tax Practices^[6], with the following:
 - The countries of residence of the immediate and ultimate parent companies of the incentive recipient; and
 - The countries of residence of all related parties with which the incentive recipient enters into a transaction for which the incentive is granted or which gives rise to income benefiting from the incentive.

9. In addition, Singapore will be adopting the enhanced transparency framework, which entails compulsory SEOI for cases that will benefit from the grandfathering timelines for the exclusion of IP income from PC-S and DEI, and involving any of the following:
 - The approval for the award or extension of the PC-S or DEI was granted between 17 October 2017 and 30 June 2018, both dates inclusive; or
 - The incentive recipient has IP rights that come into its ownership between 17 October 2017 and 30 June 2018, both dates inclusive.

Implications to Businesses

10. Companies with cases that are subject to the compulsory SEOI, including the enhanced transparency framework, will be required to provide the necessary information to EDB to be forwarded to the Inland Revenue Authority of Singapore for purposes of fulfilling Singapore’s obligations to the international standards on SEOI. More details will be furnished by the EDB at a later date.

^[5] 5 October 2015, OECD, “Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 – 2015 Final Report”, <http://www.oecd.org/tax/countering-harmful-tax-practices-more-effectively-taking-into-account-transparency-and-substance-action-5-2015-final-report-9789264241190-en.htm>

^[6] Singapore has committed to SEOI under the agreed framework set out in The Final Report on BEPS Action 5. Under the framework, certain rulings relating to preferential regimes will be spontaneously exchanged. EDB’s incentives – PC-S, DEI, Aircraft Leasing Scheme and Finance & Treasury Centre – are subject to this framework. For more details on SEOI and the rulings within scope, please refer to the IRAS website on Exchange of Information: <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/#title3>

Revised Timeline for Introduction of IDI

11. EDB is engaging businesses to understand the implementation considerations and further details will be provided in the second quarter of 2018.

Enquiries

12. Please direct queries and feedback on the above to CHUA Jia Ying at chua_jia_ying@edb.gov.sg or (65) 6832 6025.